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SPEAKER HUGH M. BARTELS, CHAIR | PRESIDENT PRO TEMPORE LEE SCHOENBECK, VICE CHAIR  
REED HOLWEGNER, DIRECTOR | SUE CICHOS, DEPUTY DIRECTOR | JUSTIN GOETZ, CODE COUNSEL  
500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



April 3, 2023

Mr. Brian Bengs  
1314 S. 8<sup>th</sup> Street  
Aberdeen, South Dakota  
57401

Dear Mr. Bengs:

SDCL 12-13-25 requires the South Dakota Legislative Research Council (LRC) to review each proposed initiated constitutional amendment submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the amendment "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters."

The initiated constitutional amendment proposes new constitutional language relating to voter-approved measures. Specifically, the amendment attempts to provide:

1. An effective date for initiated or referred measures;
2. For conflicting measures approved simultaneously, that the measure receiving the highest number of votes becomes law;
3. A prohibition on amending measures approved by electors for seven years following enactment of the measure, and
4. The Legislature with the authority to refer a measure for repeal or amendment to the electors upon a three-fourths vote of the House of Representatives and the Senate.

The proposed constitutional amendment is drafted as follows:

#### Legislative Repeal or Amendment of Initiated Measures

If a majority of votes cast upon an initiated or a referred measure are affirmative, it is enacted. An enacted initiated or referred measure shall become law on the thirty-first day after the election. A referred measure that is rejected is void immediately. If conflicting measures are approved simultaneously, only the one receiving the highest number of affirmative votes shall become law. A measure approved by the electors may not be repealed or amended by the Legislature within seven years from its effective date. Upon three-fourths vote of the members of both the Senate and House of Representatives, a measure for repeal or amendment may be referred to the electors at any subsequent general election.

SDCL 12-13-24 requires an initiated amendment to the Constitution to be written in the "form of other legislation." The LRC suggests several changes and considerations to conform to this requirement.

1. When amending the Constitution, the typical lead-in clause is as follows: "That Article III, § 1 of the Constitution of the State of South Dakota, be AMENDED:". The LRC recommends that this lead-in clause be used to be consistent with the form of other legislation.